

## SIXTY-NINTH DAY

## Continued

(Wednesday, May 28, 1941)

The Senate met at 10:00 o'clock a. m., and was called to order by the President.

## Leave of Absence Granted

Senator Winfield was granted leave of absence for today on account of important business, on motion of Senator Formby.

## Message from the House

A Clerk of the House was announced and was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
May 28, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolutions:

H. C. R. No. 177 suspending the joint rules in order that the House may consider H. B. No. 268 on Wednesday or Thursday, May 28 or 29, 1941.

H. C. R. No. 180 suspending the joint rules in order that the Senate may consider S. B. No. 488 and S. B. No. 486 on House Bill Day.

H. C. R. No. 181 suspending the joint rules in order that the House may consider H. J. R. No. 33.

Respectfully submitted,

E. R. LINDLEY,

Chief Clerk, House of Representatives.

## Reports of Standing Committee

Senator Moore, by unanimous consent, submitted at this time the following reports:

Committee Room,  
Austin, Texas,  
May 27, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 489, A bill to be entitled "An Act declaring the floods of Jackson County, Texas, to be a public calamity; authorizing a donation and grant to Jackson County Flood Control District of one-half of the

State ad valorem taxes collected in Jackson County for flood control improvement and maintenance purposes, etc.; and declaring an emergency."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

MOORE, Chairman.

Committee Room,  
Austin, Texas,  
May 27, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. C. R. No. 116, Granting N. D. Lenamond permission to bring suit against the State of Texas.

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass with amendment and be not printed.

MOORE, Chairman.

Committee Room,  
Austin, Texas,  
May 27, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. C. R. No. 117, Granting William Trakas permission to bring suit against the State of Texas.

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass with amendment and be not printed.

MOORE, Chairman.

Committee Room,  
Austin, Texas,  
May 27, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. C. R. No. 133, Granting W. L. Priddy permission to bring suit against the State of Texas.

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass with amendment and be not printed.

MOORE, Chairman.

Committee Room,  
Austin, Texas,  
May 27, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs to whom was referred H. C. R. No. 128, Granting W. C. and B. H. Kulp, their heirs, executors, administrators, and assigns, permission to bring suit against the State of Texas.

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass with amendment and be not printed.

MOORE, Chairman.

Committee Room,  
Austin, Texas,  
May 27, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. C. R. No. 124, Granting R. W. Dillard and wife permission to bring suit against the State of Texas.

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass with amendment and be not printed.

MOORE, Chairman.

Senate Chamber,  
Austin, Texas,  
May 27, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. C. R. No. 130, Granting permission to J. Clyde Cummings to bring suit against the State of Texas and against the Department of Public Safety, Division of Highway Patrol.

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

MOORE, Chairman.

Senate Chamber,  
Austin, Texas,  
May 27, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. C. R. No. 155, Granting John W. Hoch

permission to bring suit against the State of Texas.

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass with amendment and be not printed.

MOORE, Chairman.

Senate Chamber,  
Austin, Texas,  
May 27, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. C. R. No. 135, Granting Chadwick & Williams, a partnership composed of John B. Chadwick and George M. Williams, permission to sue the State of Texas.

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass with amendment and be not printed.

MOORE, Chairman.

#### House Bill No. 7 Re-referred

On motion of Senator Mauritz, H. B. No. 7 was re-referred from the Committee on State Affairs to the Committee on Public Buildings and Grounds.

#### Bills Signed

The President signed in the presence of the Senate, after their captions had been read, the following enrolled bills:

H. B. No. 962, A bill to be entitled "An Act authorizing the board of directors of the Agricultural and Mechanical College of Texas, for the use and benefit of John Tarleton Agricultural College, to construct or acquire, and equip not more than two dormitories, or to construct and equip additions to not more than two existing dormitories; authorizing and requiring said board to fix fees, rentals, and charges for the use of such dormitories and to make parietal rules concerning the same; authorizing the issuance of negotiable revenue bonds payable from and secured by revenues from such dormitories and of certain dormitories heretofore or hereafter constructed or acquired; authorizing the issuance of negotiable refunding bonds, and of refunding and construction bonds, secured by and payable from reve-

nues as herein provided; providing that bonds authorized in this Act shall not constitute an indebtedness of the State of Texas, or said board of directors, or said institution and that the holders of such revenue bonds shall never have the right to demand payment out of funds other than those pledged for their payment; authorizing under named restrictions use of a portion of the local funds to prevent or relieve a default or to create or maintain a reserve for such bonds; requiring approval of such bonds by the Attorney General, and prescribing the effect thereof; requiring registration by the Comptroller of Public Accounts; making this Act cumulative of other laws but giving precedence to the provisions of this Act; enacting other provisions relating to the subject hereof; and declaring an emergency."

H. B. No. 1000, A bill to be entitled "An Act authorizing independent school districts, and cities which have assumed the control of public schools situated therein, in any county having a population of not less than twenty-one thousand five hundred ninety (21,590) and not more than twenty-one thousand six hundred twenty (21,620) according to the last preceding Federal Census, etc.; and declaring an emergency."

#### Message from the Governor

The President laid before the Senate and had read the following message from the Governor:

Austin, Texas,  
May 27, 1941.

To the Members of the Senate of the Forty-seventh Legislature:

I am returning S. B. No. 20 without my approval.

This bill is part of a combination recommendation which I made to the Forty-seventh Legislature. My recommendation was for the State Auditor to be appointed by the Legislature instead of by the Governor, and for the Governor to appoint a budget director and efficiency expert, subject to confirmation by two-thirds of the Senate.

The Legislature divided the bill and accepted that part of my recommendation wherein the Governor surrenders his right to appoint the auditor and gives that authority to the Legislature, but refused to follow the remainder of my recommendation and give the Governor an auditor to

check into the books and records of all State departments for the purpose of making out a budget for each ensuing biennium.

In my opinion this Auditor's bill without a Budget Director bill is almost the final chapter in stripping the Governor of facilities with which to carry out his constitutional duties.

I sincerely regret that this legislation was not enacted, and that it has become necessary for me to veto S. B. No. 20, but, in my opinion, the auditing set-up we have now, although very, very bad, is much better than it would be if it were changed as contemplated in S. B. No. 20, without at the same time, giving the Governor a Budget Director and Efficiency Expert.

Respectfully submitted,

W. LEE O'DANIEL,  
Governor of Texas.

#### Senate Bill 20 Passed Over Governor's Veto

Senator Moore submitted the following motion in writing:

I move that the Senate reconsider S. B. No. 20, and that it do pass and become a law, notwithstanding the objections, the disapproval, and the veto of the Governor of Texas.

MOORE.

The motion prevailed by the following vote:

Yeas—25

Beck	Martin
Brownlee	Mauritz
Cotten	Metcalfe
Fain	Moffett
Formby	Moore
Graves	Ramsey
Hazlewood	Shivers
Hill	Smith
Isbell	Stone
Kelley	Sulak
Lanning	Vick
Lemens	Weinert
Lovelady	

Nays—1

Aikin

Absent

Chadick	York
Van Zandt	

Absent—Excused

Spears	Winfield
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**Committee Substitute Senate Bill 330  
on Second Reading**

On motion of Senator Lovelady and by unanimous consent, the regular order of business was suspended, to permit consideration of C. S. S. B. No. 330 at this time.

The President laid before the Senate on its second reading and passage to engrossment:

C.S.S.B. No. 330, A bill to be entitled "An Act to control and prevent the spread of infectious and communicable diseases among livestock and poultry, the regulation and control of baby chicks at auctions, auction sale barns and community sales, requiring permits to conduct such sales, providing certain requirements to prevent the spread of diseases and prescribing penalties for violation thereof; and declaring an emergency."

The bill was read second time.

Senator Cotten raised a point of order against further consideration of the bill at this time, on the ground that no Senate bill may be considered today (Wednesday) without suspension of the joint rule 20 by each House.

The President sustained the point of order.

**House Concurrent Resolution 180**

On motion of Senator Kelley and by unanimous consent, the regular order of business was suspended, to permit consideration of H. C. R. No. 180 at this time.

The President laid before the Senate for consideration at this time:

H. C. R. No. 180, Providing for suspension of Joint Rules so as to allow consideration of S. B. No. 488 and S. B. No. 486 in the Senate today.

The resolution was adopted.

**Senate Concurrent Resolution 68**

Senator Chadick, by unanimous consent, offered at this time the following resolution:

S. C. R. No. 68, Endorsing foreign policies of the President of the United States.

Whereas, The history of Texas bears witness that the people of this State oppose to the last drop of blood, and the last breath in their bodies, tyranny and aggression; and that they love liberty even more than life itself; and Texas and Texans have never hesi-

tated to enter the fray when this two-headed monster, tyranny and aggression, has threatened their homes and their ideals.

The bloody fields of San Jacinto, Goliad, and the Alamo give mute testimony to these facts; Shilo and the Wilderness in the Civil War, and the impetuous charge at San Juan Hill were altars upon which they made their sacrifices; and Chateau Thierry and the Meuse-Argonne confirm the willingness of Texans to make the ultimate sacrifice to preserve freedom, liberty, justice and peace in all the world; and

Whereas, Two divergent philosophies of government are now embraced in a deadly struggle that has drawn into its flaming vortex most of the countries of Europe; and the totalitarian states have sworn to extirpate democracies and democratic people from the face of the earth, and are now at war with our ideals and our way of life that we cherish as a heritage; and Great Britain is the last remaining barricade sheltering our Nation from the forces of tyranny and aggression; now, therefore, be it

Resolved by the Senate of Texas, the House of Representatives concurring, That the Legislature of the State of Texas, speaking for the people of Texas, inform the Congress of the United States and the President of the United States:

That the people of Texas, in these days of peril to ourselves and all democracies throughout the world, are unified behind the foreign policies of President Roosevelt, and desire that a firm policy toward the aggressor nation be maintained without thought of appeasement, and that Great Britain be given all possible aid until victory is won, so that the epitaph of Christian civilization may not be "too little and too late," and that steps be taken to impress upon both capital and labor the full realization of their responsibilities for National Defense, so that strikes and lockouts may not occur and imperil the safety of this Nation and our civilization over a few pieces of silver; and

That Texans are and will remain true to their historic heritage, and are willing to make whatever sacrifice is necessary, that our Nation and our posterity may live in peace, freedom and liberty; and, be it further

Resolved, That a copy of this resolution be forwarded to the President:

of the United States, the Secretary of State of the United States, the Vice-President of the United States, and the Speaker of the House of Representatives of the Congress of the United States, and to each member of the Texas delegation in the Congress of the United States, so that the President and the Congress and all the world may know that Texans still honor the principles of their fathers.

CHADICK,  
HILL,  
LOVELADY,  
FAIN,  
KELLEY.

The resolution was read, and by unanimous consent, it was considered immediately.

The resolution was adopted.

#### Message from the House

A Clerk of the House was recognized to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
May 28, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

S. B. No. 471, A bill to be entitled "An Act making appropriations to pay miscellaneous claims out of the General Revenue Fund, or any other funds against which claims were originally incurred; providing that before payment of any claims shall be paid from the funds hereby appropriated the same shall have the approval of the State Comptroller and the Attorney General; and provided further that any claim involving the refund of a franchise tax shall also carry the approval of the Secretary of State in addition to the other officials here named; and declaring an emergency." with amendments.

H. B. No. 963, A bill to be entitled "An Act appropriating out of the State General Revenue Fund the sum of One Thousand (\$1,000.00) Dollars to the Eddins Common School District, No. 62, Shelby County, Texas, to be used by said school district in rebuilding a public school house within the district."

H. B. No. 1011, A bill to be entitled "An Act appropriating the sum of Three Hundred Thousand (\$300,000.-

00) Dollars out of any funds in the State Treasury, not otherwise appropriated, annually, for the purpose of providing permanent funds or revenue for the 'Firemen's Relief and Retirement Fund' created by H. B. No. 258, Chapter 125, page 229, of the General Laws of the Regular Session of the Forty-fifth Legislature, approved April 9th, 1937; providing for the disbursement thereof; and declaring an emergency."

The House has granted the request of the Senate for the return of S. B. No. 453. (Bill attached).

The House has concurred in Senate amendments to H. B. No. 594 by a vote of 118 yeas 0 noes.

The House has passed:

S. B. No. 479, A bill to be entitled "An Act authorizing eligible cities as defined herein to issue refunding revenue bonds to take up outstanding revenue bonds issued for the purpose of constructing Exposition and Convention Halls or Coliseums, prescribing the method of issuing and securing such bonds; prescribing the duties of cities and of the officials of cities issuing such refunding bonds; requiring the approval and prescribing the effect of approval of such bonds by the Attorney General; providing for the registration and delivery of such bonds; enacting other provisions relating to the subject and relating to the issuance and security of such bonds; making this Act cumulative of other laws general or special, but providing that it shall take precedence over other laws or charter provisions in conflict or inconsistent herewith; and declaring an emergency." With amendment.

S. B. No. 475, A bill to be entitled "An Act accepting title to and establishing King's State Park and setting up a board of commissioners to advise and assist the Board of Control in the improvement, care and preservation of said park."

H. B. No. 166, A bill to be entitled "An Act to amend Articles 4557, 4558, 4559, 4561, 4562, Title 71, of the Revised Civil Statutes of Texas, 1925, requiring all persons desiring to practice optometry in Texas to pass an examination; repealing all laws or parts of laws in conflict with this Act; declaring that the remainder of the Act shall not be affected by the unconstitutionality or

invalidity of any part thereof, and declaring an emergency."

H. B. No. 222, A bill to be entitled "An Act to amend Article 2978, Revised Civil Statutes, 1925, by adding thereto a new article prescribing additional requirements for the official ballot in general elections."

H. B. No. 457, A bill to be entitled "An Act amending Article 3810, Title 56, of the Revised Civil Statutes of Texas of 1925, providing for sales to be made under powers conferred by any Deed of Trust or other contract lien, and providing the manner in which notice shall be given thereof, and declaring an emergency."

H. B. No. 996, A bill to be entitled "An Act amending Section 6 of H. B. No. 308, Chapter 245, page 856 of the Acts of the Regular Session of the Forty-third Legislature, as amended by H. B. No. 373, Chapter 264, page 651, Acts of the Regular Session of the Forty-fourth Legislature, as amended by H. B. No. 893, Chapter 257 of the Acts of the Regular Session of the Forty-fifth Legislature, as amended by H. B. No. 626, Chapter 7, page 414 of the Acts of the Regular Session of the Forty-sixth Legislature; repealing all laws or parts of laws with reference to examination of organizations operating under H. B. No. 303, Acts of the Forty-third Legislature in conflict; and declaring an emergency."

H. B. No. 1036, A bill to be entitled "An Act validating all consolidated rural high school districts having a scholastic population of not less than 250 and not more than 700 according to the last preceding scholastic enumeration, and located in counties having a population of not less than thirty-one thousand one hundred and twenty (31,120) and not more than thirty-one thousand one hundred and thirty (31,130) inhabitants according to the last preceding Federal Census, created by an act of the County Board of Trustees out of a district or districts which had heretofore been a consolidated school district or districts; validating all elections, the levying of taxes, bond issues and taxes levied therefor and all bonds voted but not issued; providing that this Act shall not apply to any district now involved in tax litigation; and declaring an emergency."

H. B. No. 524, A bill to be entitled "An Act amending Article 3899, Re-

vised Civil Statutes of Texas, 1925, as amended by Chapter 311, Acts of the Forty-fourth Legislature, Regular Session, and Chapter 465, Acts of the Second Called Session, Forty-fourth Legislature; and by Chapter 498, Acts of the Forty-fifth Legislature, to provide that premium on official bonds for county treasurers, county auditors, county road commissioners, county school superintendents, and hide and animal inspectors, and their deputies, shall be paid from county funds; and declaring an emergency."

H. B. No. 848, A bill to be entitled "An Act making appropriations to pay deficiency appropriations granted by the Governor prior to January 14, 1941, and for which no appropriations have heretofore been made; and declaring an emergency."

H. B. No. 739, A bill to be entitled "An Act authorizing and directing the Attorney General of Texas to make such investigation and to institute and prosecute such legal proceedings or suits, or take such other action as he deems proper to protect the interest of the State of Texas in and to the waters of the Pecos River; providing for the appointment of a member of the State Board of Water Engineers as Compact Commissioner, upon request of the Attorney General, to negotiate an agreement with representatives of the State of New Mexico and the United States of America concerning the storage, division and use of the waters of the Pecos River in New Mexico and Texas; providing that member of the State Board of Water Engineers appointed Compact Commissioner shall serve without additional salary; prescribing the authority and duties of such Compact Commissioner; prescribing the method of reaching such agreement and having the same agreed to and ratified by the State Legislature and approved by the Governor, and by the State of New Mexico and the Congress of the United States of America; making an appropriation to carry out the purposes of this Act; providing the Act shall not repeal Chapter 188, Acts of the Regular Session of the Forty-second Legislature, but is cumulative thereof; and declaring an emergency."

H. B. No. 1038, A bill to be entitled "An Act providing for a closed season on wild deer and wild turkey in

Upshur and Camp Counties for a period of five (5) years; prescribing penalties for the violation of this Act; repealing all laws in conflict; and declaring an emergency."

H. B. No. 1046, A bill to be entitled "An Act to amend Section 1 of H. B. No. 808 of the Regular Session of the Forty-second Legislature, Chapter 69, Special Laws, page 157, as amended by H. B. No. 327 of the Regular Session of the Forty-third Legislature, Chapter 34, Special Laws, page 42, providing for the taking of catfish, perch, buffalo and drum in the waters of Delta, Hopkins and Franklin Counties, by hand or with a seine or net having meshes one (1) inch square; and declaring an emergency."

H. B. No. 1050, A bill to be entitled "An Act to amend Section 1 of H. B. No. 738 of the Thirty-fifth Legislature, Chapter 76, Acts 1917, Special Laws, page 295, so as to change the name of the 'Remlig County Line Independent School District to 'Brookeland and Independent School District'; and declaring an emergency."

H. B. No. 1053, A bill to be entitled "An Act amending Section 5 of H. B. No. 194, Acts of the Forty-first Legislature 1929, Chapter 292, by reducing the interest rate of bonds in which taxes remitted to the City of Port Arthur may be invested; and declaring an emergency."

H. B. No. 1057, A bill to be entitled "An Act providing (1) an open season for quail in Cherokee County from December 1 in one year to January 16 in the following year, both days inclusive; (2) that it shall be lawful to kill quail in Cherokee County on Monday, Wednesday and Friday of each week, after the 1st day of December 1941, and continuing until and including the 16th day of January, 1942, and during the same time each year thereafter on the same days of the week; that twelve (12) quail shall be the limit which any one person may kill in any one day during this period; (3) that quail may be hunted and killed in Cherokee County only on Sundays and Wednesday during the period from December 1 of one year to January 16th of the following year, both days inclusive; (4) that it shall be unlawful to take, kill, or attempt to take or kill any quail in Cherokee County; providing that no section

of this Act shall be effective in Cherokee County unless and until the qualified voters of the county, by a majority vote at an election held for such purposes, shall have voted therefor; providing that only one section of this Act shall be submitted at any one time for ratification; providing the manner of calling and holding such election; providing for the posting of returns of such elections, describing the length of time which must intervene before a second election may be held on the same matter; providing that the cost of such election shall be borne by the petitioners asking for such election; describing violations of this Act and prescribing penalties therefor; limiting the effect of this Act to Cherokee County, and repealing all laws or parts of laws in conflict herewith, insofar as they apply to Cherokee County; and declaring an emergency."

H. B. No. 1058, A bill to be entitled "An Act amending H. B. No. 843 of the Regular Session of the Forty-seventh Legislature by adding a new section to be numbered Section 1a, and to provide exemption as to certain waters of Lake Corpus Christi; and declaring an emergency."

H. B. No. 1059, A bill to be entitled "An Act to amend Section 40 of S. B. No. 36, Acts of the Forty-sixth Legislature, to provide the effective date for making grants of aid and assistance to the needy blind and for destitute dependent children; making an appropriation for providing and administering aid to the blind for the period from May 1, 1941 to August 31, 1941, making an appropriation for providing and administering aid and assistance for destitute dependent children for the period from May 1, 1941, to August 31, 1941; and declaring an emergency."

H. B. No. 1065, A bill to be entitled "An Act providing that mutual life insurance companies and associations operating under S. B. No. 135, Acts of the Regular Session of the Forty-sixth Legislature may with the approval of the Board of Insurance Commissioners place provisions in the policies issued providing for the payment of reduced benefits or the exclusion of coverage if death or injury occurs while the insured is engaged in military, naval, aerial service or aerial flight in time of peace or war; or while engaged in certain hazardous occupations to be named



in the policies; or if death or injury is caused by mob violence or legal execution; and providing for reducing or excluding benefits for sickness from certain named causes; providing a savings clause; repealing all laws or parts of laws in conflict herewith; and declaring an emergency."

S. B. No. 119, A bill to be entitled "An Act amending Article 1645, Revised Civil Statutes of Texas, 1925, as amended Acts 1927, Fortieth Legislature, First Called Session, page 104, Chapter 35, Section 1; as amended Acts 1929, Forty-first Legislature, First Called Session, page 62, Chapter 28, Section 1; as amended Acts 1931, Forty-second Legislature, Second Called Session, page 29, Chapter 15, Section 1; as amended Acts 1937, Forty-fifth Legislature, First Called Session, page 1826, Chapter 45, Section 3; as amended Acts 1939, Forty-sixth Legislature, Special Laws, page 595, Section 1; and amending Article 1646 of the Revised Civil Statutes of Texas, 1925, as amended Acts 1929, Forty-first Legislature, page 687, Chapter 308, Section 1; providing for the appointment of county auditors in certain counties; providing salaries for such county auditors and the method of fixing and payment of same; providing order fixing salary to be recorded in the minutes of the district court of the county and to be certified to commissioners' court for recording in its minutes; providing for the repeal of all laws or parts of laws in conflict herewith; providing for a saving clause in the event any portion of this Act shall be held unconstitutional; and declaring an emergency." With amendments.

S. B. No. 269, A bill to be entitled "An Act to amend Articles 3927 and 3928, Revised Civil Statutes 1925; providing the effective date of the Act; repealing all Acts inconsistent herewith; and declaring an emergency."

S. B. No. 477, A bill to be entitled "An Act authorizing the County Judge to employ a stenographer or clerk in any county having a population of not more than eleven thousand, seven hundred and twenty (11,720) and not less than eleven thousand, seven hundred and ten (11,710) inhabitants, according to the last preceding Federal Census of 1940; regulating the salary of same; providing for payment of salary;

providing for removal; and declaring an emergency." With amendment.

S. B. No. 323, A bill to be entitled "An Act amending Section 2 of Chapter 148, of the General Laws passed by the Forty-second Legislature in its Regular Session in 1931, as amended by Section 2, of Chapter 15, of the General Laws passed by the Forty-fourth Legislature in its Regular Session in 1935; so as to authorize the issuance of bonds by any city and/or county for the purchase and/or improvement of lands for park purposes; and declaring an emergency."

The House has adopted the Conference Committee Report on H. B. No. 360 by a vote of 125 ayes 4 noes.

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### Hour for Joint Session Postponed

On motion of Senator Moffett and by unanimous consent, the hour for the joint session to hear an address by Mr. H. V. Kaltenborn was postponed to 12:30 o'clock p. m. today.

#### Reports of Standing Committees

Senator Mauritz, by unanimous consent, submitted at this time the following report:

Austin, Texas,  
May 28, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Public Buildings and Grounds, to whom was referred

H. B. No. 7, A bill to be entitled "An Act making a donation of all of the net amount of State ad valorem taxes collected on property situated in and from rolling stock of railroads apportioned to Calhoun County, Texas, to the City of Port Lavaca, Texas, to enable the city to construct, repair, and improve sea walls, breakwaters, and harbors, to prevent continuing and recurring calamitous overflows; providing for reports by the assessor and collector of taxes to Comptroller and providing for disposition of moneys collected by him; authorizing said city to issue bonds subject to the provisions and limitations contained in this Act; prescribing a penalty for diversion of such State donated funds; enacting other provi-



sions relating to the subject; and declaring an emergency."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass and be not printed.

MAURITZ, Chairman.

Senator Aikin, by unanimous consent, submitted at this time the following report:

Austin, Texas,  
May 28, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 476, A bill to be entitled "An Act transferring to the State Highway Fund all unexpended and unobligated balances of appropriations made to the Department of Public Safety for use in paying salaries and other costs of operating the Certificates of Title Division of the Department of Public Safety for the use of the Highway Department, etc.; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

#### Senate Bill 488 on Second Reading

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 488, A bill to be entitled "An Act providing that any water improvement district heretofore organized under the provisions of Section 52 of Article 3 of the State Constitution which has heretofore been or which may hereafter be converted into a water control and improvement district, may be and become again converted into a water improvement district, setting out the manner and method of such conversion; and declaring an emergency."

The bill was read second time and was passed to engrossment.

#### Senate Bill 488 on Third Reading

Senator Kelley moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 488 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Lovelady
Beck	Martin
Brownlee	Mauritz
Chadick	Metcalf
Cotten	Moffett
Fain	Moore
Formby	Ramsey
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	York

Absent

Shivers

Absent—Excused

Spears

Winfield

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Lovelady
Beck	Martin
Brownlee	Mauritz
Chadick	Metcalf
Cotten	Moffett
Fain	Moore
Formby	Ramsey
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	York

Absent

Shivers

Absent—Excused

Spears

Winfield

#### Bills Signed

The President signed in the presence of the Senate, after their captions had been read, the following enrolled bills:

H. B. No. 594, A bill to be entitled "An Act making an appropriation out of the General Revenue of the State of Texas for the Secretary of

State, for the purpose of compiling, editing, indexing, binding, and distributing the current laws; making the same immediately available; and declaring an emergency."

H. B. No. 997, A bill to be entitled "An Act appropriating One Thousand (\$1,000) Dollars for the commission of appeals to the court of criminal appeals; and declaring an emergency."

#### House Bill on First Reading

The following bill, received from the House today, was laid before the Senate, read first time, and referred to the committee indicated:

H. B. No. 1065, to Committee on Insurance.

#### Reports of Standing Committees

Senator Van Zandt, by unanimous consent, submitted at this time the following report:

Austin, Texas,  
May 28, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Insurance, to whom was referred

H. B. No. 1065, A bill to be entitled "An Act providing that mutual life insurance companies and associations operating under S. B. No. 135, Acts of the Regular Session of the Forty-sixth Legislature may with the approval of the Board of Insurance Commissioners place provisions in the policies issued providing for the payment of reduced benefits or the exclusion of coverage if death or injury occurs while the insured is engaged in military, naval, aerial service or aerial flight in time of peace or war; or while engaged in certain hazardous occupations to be named in the policies; or if death or injury is caused by mob violence or legal execution; and providing for reducing or excluding benefits for sickness from certain named causes; providing a savings clause; repealing all laws or parts of laws in conflict herewith; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

VAN ZANDT, Chairman.

Senator Weinert, by unanimous consent, submitted at this time the following report:

Austin, Texas,  
May 28, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 122, A bill to be entitled "An Act to amend H. B. No. 191, Acts, Forty-sixth Legislature, page 123, providing for the chartering of non-profit corporations to be organized for the purpose of furnishing group hospital service, and to provide for the methods of operation, regulation, and supervision of such corporations and of their contracts; providing exemption from Title 78 of the Revised Civil Statutes of Texas, 1925; providing a saving clause; declaring laws in conflict inapplicable; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WEINERT, Chairman.

#### Conference Committee on Senate Bill 479

Senator Moore called S. B. No. 479 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate.

Question—Shall the Senate concur in the House amendments?

Senator Moore moved that the Senate do not concur in the House amendments and that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

Accordingly, the President appointed the following conferees on the bill on the part of the Senate: Senators Moore, Shivers, Ramsey, Weinert and Fain.

#### Concurrence in House Amendments to Senate Bill 414

Senator Vick called S. B. No. 414 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate.

Question—Shall the Senate concur in the House amendments?

Senator Vick moved that the Senate concur in the House amendments to the bill.

Senator Shivers moved that the Senate do not concur in the House amendments and that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

Senator Vick moved to table the motion of Senator Shivers.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—18

Aikin	Lanning
Beck	Martin
Brownlee	Mauritz
Fain	Metcalf
Formby	Moore
Graves	Smith
Hazlewood	Sulak
Hill	Van Zandt
Isbell	Vick

Nays—9

Chadick	Ramsey
Cotten	Shivers
Lemens	Stone
Lovelady	Weinert
Moffett	

Absent

Kelley	York
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Absent—Excused

Spears	Winfield
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Question recurring on the motion to concur, it prevailed.

Record of Vote

Senator Stone asked to be recorded as voting "nay" on the motion to concur.

Report of Conference Committee on House Bill 360

Senator Hazlewood submitted the following report:

Austin, Texas,  
May 20, 1941.

Hon. Coke R. Stevenson, President of the Senate;

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Dear Mr. Speaker and Mr. President:

We, your Conference Committee, appointed to adjust the differences between the two Houses on H. B. No.

360, have met and beg leave to recommend that said H. B. No. 360 be passed in the form hereto attached.

Respectfully submitted,

HALSEY,  
LITTLE,  
BURKETT,  
CRAIG,  
FAVORS,

On the part of the House.

HAZLEWOOD,  
FORMBY,  
WINFIELD,  
MARTIN,  
METCALFE,

On the part of the Senate.

H. B. No. 360, A bill to be entitled "An Act authorizing the commissioners' court in each county in this State having a population of not less than ten thousand three hundred and twenty-five (10,325) nor more than ten thousand three hundred and fifty (10,350) and nineteen thousand and twenty-five (19,025) nor more than nineteen thousand and seventy (19,070) and twenty-three thousand nine hundred (23,900) nor more than twenty-three thousand nine hundred and fifty (23,950) according to the last preceding Federal Census to allow each county commissioner certain expense for traveling and in connection with the use of his automobile on official business only; requiring each such commissioner to pay the expense of operation and repair of such vehicle so used without any further expense whatsoever to the county; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. In any county in this State containing a population of not less than ten thousand three hundred twenty-five (10,325) nor more than ten thousand three hundred fifty (10,350), and nineteen thousand twenty-five (19,025) nor more than nineteen thousand seventy (19,070), and twenty-three thousand nine hundred (23,900) nor more than twenty-three thousand nine hundred fifty (23,950), according to the last preceding Federal Census, the commissioners' court is hereby authorized to allow each commissioner not more than the sum of Thirty-five (\$35.00) Dollars per month to be paid out of the road and bridge fund of each respective commissioners' precinct, for traveling expenses and depreciation on the automobile while used on offi-

cial business only and/or in overseeing the construction and maintenance of the public roads of said counties. Each such commissioner shall pay all expenses in the operation of such automobile and keep same in repair at his own expense, free of any other charge whatsoever to the county; provided, however, that such expenses not to exceed Thirty-five (\$35.00) Dollars per month must be itemized, sworn to and filed for record with the county clerk.

Section 2. The fact that in the counties affected by this Act there is great need that the counties participate in defraying the expense of such commissioners because the great amount of road work now going on increases the necessity of such commissioner traveling from place to place overseeing the construction and maintenance of such roads creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The report was adopted by the following vote:

Yeas—29

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	York
Lovelady	

Absent—Excused

Spears Winfield

#### Adoption of Report of Conference Committee on Senate Bill 402

Senator Aikin moved that the report of the Conference Committee on S. B. No. 402, the eleemosynary appropriation bill, be adopted.

The motion prevailed.

#### Senate Bill 476 on Second Reading

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended, to permit consideration of S. B. No. 476 at this time.

The President laid before the Senate on its second reading and passage to engrossment:

S. B. No. 476, A bill to be entitled "An Act transferring to the State Highway Fund all unexpended and unobligated balances of appropriations made to the Department of Public Safety for use in paying salaries and other costs of operating the Certificate of Title Division of the Department of Public Safety for the use of the Highway Department in paying salaries and all other costs of operating the Certificate of Title Division of the State Highway Department; making an appropriation of Fifteen Thousand (\$15,000) Dollars out of the General Revenue Fund in the State Treasury to the State Highway Department for its use in paying any salaries and other expenses necessary to carry out the provisions of H. B. No. 205 passed at the Regular Session of the Forty-seventh Legislature; providing that any amounts expended by the State Highway Department from the appropriation of Fifteen Thousand (\$15,000) Dollars herein made from the General Revenue Fund shall be repaid by the State Highway Department to the General Revenue Fund from Certificate of Title fees received by the Highway Department during the biennium ending August 31, 1943, and making an appropriation for such purpose; providing that in no event shall salaries paid from the appropriation herein made be in excess of the amounts paid for the same or similar positions in any Department of the State Government; and declaring an emergency."

The bill was read second time and was passed to engrossment.

#### Senate Bill 476 on Third Reading

Senator Aikin moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 476 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Brownlee
Beck	Chadick

Cotten	Metcalf
Fain	Moffett
Formby	Moore
Graves	Ramsey
Hazlewood	Shivers
Hill	Smith
Isbell	Stone
Kelley	Sulak
Lanning	Van Zandt
Lemens	Vick
Lovelady	Weinert
Martin	York
Mauritz	

Absent—Excused

Spears Winfield

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	York
Lovelady	

Absent—Excused

Spears Winfield

#### Concurrence in House Amendments to Senate Bill 70

Senator Moffett called S. B. No. 70 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate.

Question—Shall the Senate concur in the House amendments?

The Senate concurred in the House amendments to the bill.

#### Record of Vote

Senators Cotten, Sulak, Hazlewood, York and Beck asked to be recorded as voting "nay" on concurrence in the House amendments to the bill.

#### Conference Committee on Senate Bill 471

Senator Lanning called S. B. No. 471 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate.

Question—Shall the Senate concur in the House amendments?

Senator Lanning moved that the Senate do not concur in the House amendments and that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

Accordingly, the President appointed the following conferees on the bill on the part of the Senate: Senators Lanning, Lovelady, Formby, Lemens and Isbell.

#### Report of Conference Committee on Senate Bill 470

Senator Moore submitted the following report:

Conference Committee Room,  
Austin, Texas,  
May 19, 1941.

Hon. Coke R. Stevenson, President of the Senate;

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the two Houses on S. B. No. 470, have met and beg leave to recommend that said S. B. No. 470 be passed in the form hereto attached.

Respectfully submitted,

MOORE,  
SHIVERS,  
VAN ZANDT,  
WEINERT,  
CHADICK,

On the part of the Senate;

MORRIS,  
BELL,  
BROWN,  
CATO,  
SKILES,

On the part of the House.

S. B. No. 470, A bill to be entitled "An Act amending Article X of H. B. No. 8, Acts, Regular Session, Forty-seventh Legislature, so as to define the terms 'new,' 'cosmetics,' and 'play-

ing cards'; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. Article X of H. B. No. 8, Acts, Regular Session, Forty-seventh Legislature, is amended hereby by adding thereto a new Section to be known as Section 1a and reading as follows, to-wit:

"Section 1a. 1. The term 'new' as used in this Article in connection with the terms 'radios' and 'cosmetics' shall mean those cosmetics or radios not theretofore sold at retail to the consumer.

"2. The term 'cosmetics' as used in this Article means: rouge (liquid, semi-solid, or solid), lipstick (liquid, semi-solid or solid), face powder, face creams (including cleansing, foundation, vanishing, massage or any other similar cream to be used on the skin), lotions (hand, face, and skin, including astringents), nail polish (all kinds) and manicuring preparations, eyelash preparations, eyebrow pencils, eye shadowing preparations, hair oil, hair tonic and other hair preparations; but such shall not include soap (liquid, semi-solid or solid) nor any prescription prescribed for a particular individual by a physician regularly licensed and practicing in the State of Texas when such prescription is filed with and filled by a pharmacist.

"3. The term 'playing cards' is defined to be a deck or pack containing at least fifty-two (52) cards of four (4) suits, commonly known as spades, hearts, diamonds, and clubs, and each such suit containing an ace, king, queen, jack, ten, nine, eight, seven, six, five, four, three, and deuce, such deck sometimes including a fifty-third or extra card, commonly known as the joker."

Sec. 2. The crowded condition of the calendar creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The report was adopted by the following vote:

Yeas—29

Aikin	Chadick
Beck	Cotten
Brownlee	Fain

Formby	Moffett
Graves	Moore
Hazlewood	Ramsey
Hill	Shivers
Isbell	Smith
Kelley	Stone
Lanning	Sulak
Lemens	Van Zandt
Lovelady	Vick
Martin	Weinert
Mauritz	York
Metcalf	

Absent—Excused

Spears Winfield

#### Senate Concurrent Resolution 69

Senator Lemens, by unanimous consent, offered the following resolution at this time:

S. C. R. No. 69, to grant R. W. Dillard and wife, Lillian Dillard, permission to sue the State of Texas.

Whereas, it is alleged that the State Highway Department of Texas did build and cause to be built during the years 1940 and 1941, by and through its duly authorized agents and representatives, and said Highway Department by and through its agents and employees did supervise and construct the building of State Highway No. 287 through the County of Ellis; and

Whereas, it is alleged R. W. Dillard and wife, Lillian Dillard, owned real property consisting of farms and pastures through which a part of said highway traverses; and

Whereas, it is alleged that in the construction of said Highway No. 287 by said Highway Department, such construction was done and performed in such a manner as to cause a large and long embankment to be constructed in such a way that it is impossible for said R. W. Dillard and wife, Lillian Dillard, to move farm equipment from barns and warehouse from one side of this embankment to the other side of said embankment without great hardship and actual danger both to life and property; and

Whereas, it is likewise alleged that it is impossible for said owners to bring the harvest of their fields from one side of the highway to barns and warehouses situated on the other side of the highway; and

Whereas, It is alleged that said owners, R. W. Dillard and wife, Lillian Dillard, are using a part of

their land traversed by said highway for pasturage for stock; and

Whereas, Since the construction of this highway in the manner in which it was constructed by said Highway Department, at certain seasons of the year it will be necessary to move stocks from the pasture on one side of the highway to the land belonging to them on the other side of this highway for the purpose of watering and caring for same; and

Whereas, It is alleged that prior to the construction of said highway a creek or branch in its natural course flowed across the property of said R. W. Dillard and wife, Lillian Dillard, in such a natural manner as to cause no inconvenience or detriment to his property, but was in fact an asset; and

Whereas, It is alleged that the said Highway Department in the construction of said highway did construct same in such a manner as to turn the natural flow of water from his land by the construction of deep and dangerous ditches and culverts in such a way as to cause said water to flow down a ditch and off of said property of said R. W. Dillard and wife, Lillian Dillard, and through a storm culvert constructed on property adjoining said property of R. W. Dillard and wife, Lillian Dillard, damaging his property with this unnatural overflow; and

Whereas, It is alleged that the natural course of this stream was changed to flow in an unnatural manner off of his property at such a level that water was caused to flow onto the property of said R. W. Dillard and wife, Lillian Dillard, from the adjoining property that never in the natural course of this stream or the natural incline of the land adjoining him overflowed onto his land; and

Whereas, It is alleged that the construction of this culvert and the long embankment will cause water to back up on part of his land now used for farm purposes and thus arbitrarily make seasonable ponds and artificial lakes to the detriment of said property; and

Whereas, It is alleged that this culvert was constructed and the natural course of the stream was changed to a location on said highway so as to force all of the water draining from the land of the owners as well as the water flowing from

the land of the adjoining property owner through the construction of one culvert when it is alleged that in fact two culverts were actually needed; and

Whereas, It is alleged that this culvert was in fact not constructed at a location where the water from the property owner would naturally flow through, but it is alleged that the location of this culvert was made and constructed as an underpass so that cattle belonging to the adjoining property owner could use in going to and from pastures belonging to the adjoining property owners; and

Whereas, It is alleged that if the culvert to serve the overflow had been constructed at its proper place to serve the natural overflow, cattle belonging to R. W. Dillard and wife, Lillian Dillard, could use same at no additional expense to the Highway Department and at no inconvenience or extra cost to the Highway Department; and

Whereas, It is alleged that R. W. Dillard and wife, Lillian Dillard, are now compelled to either drive their cattle and livestock across a State Highway at great hazard or be compelled to either abandon the pasture for stock raising purposes or be compelled to drive their cattle off of their land onto the land of another through this makeshift culvert and underpass, and thence back onto their own property; and

Whereas, It is alleged that in order to do this a fence or barrier will have to be constructed through the entire length of this culvert and lanes would have to be constructed leading back onto the property of said R. W. Dillard and wife, Lillian Dillard, which is impractical and at certain seasons of the year due to the flow of water through this culvert will make such procedure highly impractical if not impossible; and

Whereas, It is alleged that the Highway Department through its duly authorized agents and representatives have over the protest and without the consent of R. W. Dillard and wife, Lillian Dillard, torn down and removed fences constructed by R. W. Dillard to protect his property and have destroyed landmarks and property lines; and

Whereas, It is further alleged that they have failed and refused to reconstruct the fence along the right-of-way of the land that the Highway



Department has taken from said owners; and

Whereas, It is further alleged that R. W. Dillard and wife, Lillian Dillard, owners of the said property, have not been paid for the land thus taken; and

Whereas, The construction of said Highway No. 287 has left barriers and fences down which have not been reconstructed and where all of the alleged injuries herein set forth happened during the construction of said new highway, a part of which is now in the course of being constructed; therefore, be it

Resolved by the Senate, the House concurring, That said R. W. Dillard and wife, Lillian Dillard, be and are hereby granted permission to bring suit against the State of Texas, and against the Highway Department of the State of Texas in any court of competent jurisdiction in Ellis County, Texas, in order to determine what compensation, if any, said R. W. Dillard and wife, Lillian Dillard, are entitled to receive by reason of such alleged damages; and in case such suit be filed service of citation or any other necessary processes shall be had upon the Chairman of the State Highway Commission of Texas, and that the same have the same force and effect as made and provided in Civil cases, and that either parties to said suit shall have the right to appeal, and it is so resolved.

The resolution was read, and was referred to the Committee on State Affairs.

#### Message from the House

A Clerk of the House was announced and was recognized by the President to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
May 28, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill and resolutions:

H. B. No. 875—The House has passed H. B. No. 875 notwithstanding the veto of the Governor by a vote of 90 yeas, 45 noes.

H. C. R. No. 182, Suspending joint rules so the House may consider H. J. R. No. 32.

H. C. R. No. 183, Instructing Enrolling Clerk to correct H. B. No. 73.

The House has granted the request of the Senate for the appointment of a Conference Committee to consider the differences between the two Houses on S. B. No. 479. The following are conferees on the part of the House: Morse, Winfree, Montgomery, Heflin and Howard.

The House has adopted the Conference Committee report on S. B. No. 479 by a vote of 117 yeas, 3 noes.

The House has granted the request of the Senate for the appointment of a Conference Committee on S. B. No. 471 and appoints the following: Lehman, Turner, Colson, Stanford and McGlasson.

Respectfully submitted,

E. R. LINDLEY,

Chief Clerk, House of Representatives.

#### Report of Conference Committee on House Bill 29

Senator Sulak submitted the following report:

Austin, Texas,

May 22, 1941.

Hon. Coke R. Stevenson, President of the Senate;

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: We, your Conference Committee, appointed to adjust the differences between the two Houses on H. B. No. 29, have met and beg leave to recommend that H. B. No. 29 be passed in the form hereto attached.

Respectfully submitted,

SULAK,  
GRAVES,  
MAURITZ,  
MARTIN,  
MOFFETT,

On the part of the Senate;

FUCHS,  
CHAMBERS,  
HOYO,  
CARRINGTON,

On the part of the House.

A bill to be entitled

"An Act to amend Article 1037, of the Revised Criminal Statutes of Texas of 1925, as amended by S. B. No. 222, Chapter 303, Acts of the Forty-first Legislature, Regular Session, relating to weights and measures; prohibiting the sale, use, or possession of false weights, measures, or weighing or measuring devices

and weights, measures, or weighing or measuring devices which have not been sealed by a weights and measures official; prohibiting the sale and use of devices which have been condemned for repairs; prohibiting the sale of commodities contrary to law; requiring commodities to be sold by weight, measure, or numerical count; regulating the packing and marking of packages and containers; requiring the net quantity of contents of such packages or containers to be plainly and conspicuously marked on the outside of package or container; requiring the name and address of manufacturer, packer, or distributor on packages; providing for certain variations in weight; prohibiting deceptive pack; providing for standard of fill of containers; providing standards for the sale of butter, milk, cheese, meat and meat food products, including poultry; prohibiting misrepresentation of price or quantity of commodity, thing, or service; providing for establishment of rules and regulations, including certain exemptions; defining certain terms; providing penalties for the enforcement of the Act; repealing laws in conflict; including a saving clause; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. That Article 1037 of the Revised Criminal Statutes of the State of Texas of 1925, as amended by S. B. No. 222, Chapter 303, Acts of the Forty-first Legislature, Regular Session, be and the same is hereby amended to read as follows:

"Article 1037. Any person who, by himself or by his servant or agent, or as the servant or agent of another person, shall offer or expose for sale, sell, use in the buying or selling of any commodity or thing, or for hire or award, or in the computation of any charge for services rendered on the basis of weight or measure, or in the determination of weight or measure when a charge is made for such determination, or retain in his possession, a false weight or measure or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed by the Commissioner, or his deputy, or inspectors, or by a sealer or deputy sealer of weights and measures within one year, or shall dispose of any condemned weight, measure, or weighing or measuring

device contrary to law; or who shall sell or offer or expose for sale less than the quantity he represents of any commodity, thing, or service, or shall take or attempt to take more than the quantity he represents, when, as the buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of any commodity, thing, or service is determined; or who shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law; or who shall sell or offer for sale, or use or have in his possession for the purpose of selling or using, any device or instrument to be used to or calculated to falsify any weight or measure, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Twenty (\$20) Dollars or more than One Hundred (\$100) Dollars, upon a first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction he shall be punished by a fine of not less than Fifty (\$50) Dollars or more than Two Hundred (\$200) Dollars.

"Section A. The word 'person' as used in this Chapter shall be construed to include any individual and all officers, directors, managers, employees, and other agents of all corporations, companies, partnerships, societies and associations, and such is the legislative intent.

"The words 'weights, measures or (and) weighing or (and) measuring devices' as used in this Chapter, shall be construed to include all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all such instruments.

"The words 'sell' or 'sale' as used in this Chapter, shall be construed to include barter and exchange.

"The term 'false weight or measure, or (and) weighing or measuring device' as used in this Chapter, shall be construed to mean any weight or measure or weighing or measuring device which does not conform as closely as practicable to the official standards, which is not accurate, which is of such construction that it is not reasonably permanent in its adjustment or will not correctly repeat its indications, which facilitates

the perpetration of fraud, or which does not conform to the requirements of the Statutes of this State and of the specifications and tolerances promulgated by the Commissioner under authority of Article 5714, Chapter 7, Title 93, of the Revised Civil Statutes of Texas of 1925, as amended.

"Section B. It shall be unlawful to sell, except for immediate consumption on the premises, liquid commodities in any other manner than by liquid measure, or commodities not liquid in any other manner than by measure of length, by weight, or by numerical count: Provided, however, that liquid commodities may be sold by weight if there exists a general consumer usage to express the quantity of such commodities by weight and such expression gives accurate information as to the quantity thereof; and that nothing in this Section shall be construed to prevent the sale of fruits, vegetables, and other dry commodities in the standard barrel or by other methods provided for by State or Federal Law; or of berries and small fruits in boxes as provided for in the provisions of other Articles of the Statutes; or of vegetables or fruits usually sold by the head or bunch in this manner: Provided further, that nothing in this Section shall be construed to apply to commodities put up in original packages.

"For the purposes of this Section the term 'original package' shall be construed to include a commodity in a package, carton, case, can, barrel, bottle, box, phial, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, which may be labeled, branded, or stenciled, or otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words 'original package' shall be construed to include both the wholesale and the retail package.

"For the purposes of this Section the term 'commodities not liquid' shall be construed to include goods, wares, and merchandise, which are not in liquid form and which have heretofore been sold by measure of length, by weight, by measure of capacity, or by numerical count, or which are susceptible of sale in any of these ways.

"Section C. (1) It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form unless (a) the net quantity of contents, in terms of weight, measure, or numerical count; and (b) the name and place of business of the manufacturer, packer, or distributor shall be plainly and conspicuously marked on the outside of the package: Provided, however, that under Clause (a) of this Section reasonable variations or tolerances shall be permitted, and exemptions as to small packages shall be made; and that under Clause (b) of this Section exemptions as to small packages and packages sold on the premises where packed shall be made: And provided further, that this Section shall not be construed to apply to those commodities in package form, the manner of sale of which is specifically regulated by the provisions of other Articles of the Statutes, or to bales of cotton; and that reasonable rules and regulations for the efficient enforcement of this Act, not inconsistent herewith, and including the reasonable variations or tolerances and the exemptions prescribed herein, shall be made by the Commissioner.

"(2) It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell any commodity in package form if its container is so made, formed, or filled, or if it is so wrapped, as to mislead the purchaser as to the quantity of the contents; or if the contents of its container fall below the standard of fill prescribed by regulations promulgated as provided in this Section. For the effectuation of the purposes of this Section the Commissioner is hereby authorized to promulgate regulations fixing and establishing for any commodity in package form a standard of fill of container, which in his best judgment is reasonable with respect to the physical characteristics of the commodity, the size, shape, and physical characteristics of the container, prevailing methods of handling and transportation of packages, and the generally accepted good commercial practice in filling methods: Provided, however, that reasonable variations or tolerances shall be permitted, and that these reasonable variations or tolerances shall be established by regulations made by the Commissioner.

"(3) The words 'in package form' as used in this Chapter, shall be construed to include a commodity in package, carton, case, can, box, bag, barrel, bottle, phial, or on a spool or similar holder, or in a container or band, or in a roll, ball, coil, skein, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, or when put up prior to the order of the commodity, by the vendor, which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words 'in package form' shall be construed to include both the wholesale and the retail package: Provided, however, that a box or carton used for shipping purposes containing a number of packages which are individually marked, as hereinbefore provided, will not be required to bear the weight or measure of the contents thereof; nor the name and place of business of the manufacturer, packer or distributor: And provided further, that the words 'in package form' shall not be construed to include paper stationery in tablet form.

"Section D. It shall be unlawful for any person to sell, or offer to sell, any butter or renovated or process butter or oleomargarine in any other manner than by weight. It shall be unlawful for any person to put up, pack, or keep for the purpose of sale, offer or expose for sale, or sell any butter or renovated or process butter, or oleomargarine, in the form of prints, bricks, or rolls, in any other than the following sizes, to-wit: one-quarter pound, one-half pound, one pound, one and one-half pounds, or multiples of one pound. Each print, brick, or roll shall bear a definite, plain, and conspicuous statement of its true net weight and the name and place of business of the manufacturer, packer, or distributor: Provided, however, that reasonable variations or tolerances in weight shall be permitted, and that these reasonable variations or tolerances shall be established by regulations made by the Commissioner.

"The prints, bricks, or rolls referred to in this Section shall be construed to include those prints, bricks, or rolls put up by the manufacturer or packer; or when put up prior to the order of the commodity, by the vendor.

"Section E. It shall be unlawful for any person to keep for the purpose of sale, offer or expose for

sale, or sell, any milk or cream in bottles or other containers of any capacity other than those provided for measures of capacity for liquid in Article 5732, Chapter 7, Title 93, of the Revised Civil Statutes of Texas of 1925, to-wit; the gallon, a multiple of the gallon, one-half gallon, quart, pint, one-half pint, and gill.

"Section F. It shall be unlawful for any person to keep for the purpose of sale, offer or expose for sale, or sell, except for immediate consumption on the premises, any cheese, meat, or meat food products otherwise than by standard net weight: Provided, however, that any cheese, meat, or meat food products, in package form, shall comply with the requirements of Section C of this Article. For the purposes of this Section the following shall be deemed to be meat and meat food products: All fresh, cured, or salt meats, fish, poultry, sausage, chile, head cheese, souse meat, loaf meat, boneless meat, shredded meat, hamburger meat, or any other manufactured, prepared, or processed meat or meat food products. This Section shall be construed to require that all poultry sold by live weight shall be weighed alive at the time of sale, and that any poultry dressed or killed prior to time of sale, whether cooked or uncooked, shall be sold by net weight at time of sale and not by live weight or by the piece.

"The word 'poultry' as used in this Section shall be construed to include turkeys, chickens, ducks, geese, guineas, squabs, and all other domesticated fowls.

"Section G. Whenever any commodity is sold on a basis of weight, it shall be unlawful to employ any other weight in such sale than the net weight of the commodity; and all contracts concerning goods sold on a basis of weight shall be understood and construed accordingly. Whenever the weight of a commodity is mentioned in this Chapter, it shall be understood and construed to mean the net weight of the commodity.

"Section H. It shall be unlawful for any person to misrepresent the price of a commodity, thing, or service sold or offered or exposed for sale, or to represent the price or the quantity of any commodity, thing, or service sold or offered or exposed for sale in any manner calculated or tending to mislead or deceive an actual

or prospective customer. Whenever any price sign, tag, card, poster, or other advertisement displaying the price of any commodity or thing, includes a whole number and a fraction, the figures in the fraction shall be of proportionate size and legibility with those of the whole number.

"Section I. There shall be no violation under this Act for any discrepancy between actual weight or volume at the time of sale to the consumer and the weight marked on the container or between the fill of container and the capacity of the container if such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste or to causes beyond the control of the seller acting in good faith.

"Section J. Any person who shall violate any provisions of this Act, or any of the reasonable rules and regulations promulgated hereunder, for which a specific penalty has not been provided, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than Twenty (\$20.00) Dollars or more than One Hundred (\$100.00) upon a first conviction in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction shall be punished by a fine of not less than Fifty (\$50.00) Dollars or more than Two Hundred (\$200.00) Dollars."

Sec. 2. If any Article, Section, provision, sub-division, or part of this Act should be held invalid for any reason, it is the legislative intent that the remainder of the Act shall remain in full force and effect.

Sec. 3. H. B. No. 110, Chapter 53, Acts of the Third Called Session of the Thirty-eighth Legislature, and all other laws or parts of laws in conflict with this Act are hereby repealed.

Section 4. The fact that many commodities are being sold in this State in package form without the net quantity of contents being marked thereon, and the further fact of the crowded condition of the calendar create an emergency and an imperative public necessity that the constitutional rule requiring all bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Question—Shall the report be adopted?

Senator Lovelady moved to table the report.

Senator Moffett raised the point of order that the motion to table is not applicable to a report of a Conference Committee.

Senator Moore called for an immediate ruling on the point of order.

The President sustained the point of order.

Senator Sulak moved that the report be adopted.

Senator Metcalfe moved that the report be rejected and the differences between the two Houses on the bill be referred to a new Conference Committee.

Senator Moore moved the previous question on the pending motions, and the main question was ordered.

Question first recurring on the motion of Senator Metcalfe, yeas and nays were demanded.

The motion prevailed by the following vote:

#### Yeas—16

Brownlee	Martin
Cotten	Mauritz
Formby	Metcalfe
Hazlewood	Moffett
Hill	Stone
Isbell	Sulak
Kelley	Van Zandt
Lanning	Vick

#### Nays—13

Aikin	Moore
Beck	Ramsey
Chadick	Shivers
Fain	Smith
Graves	Weinert
Lemens	York
Lovelady	

#### Absent—Excused

Spears	Winfield
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#### House Bill 983 on Second Reading

On motion of Senator Ramsey and by unanimous consent, the regular order of business was suspended, to permit consideration of H. B. No. 983 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 983, A bill to be entitled "An Act repealing Article 1350, Revised Civil Statutes of Texas, 1925; amending Article 1351 so as to make the penalty therein provided apply

specifically to Articles 1348 and 1349, Revised Civil Statutes of Texas, 1925; amending Article 1351, Revised Civil Statutes and Article 213, Penal Code of Texas, to prohibit corporations, their officers, directors, stockholders, employees and agents acting in their behalf from expending or promising to expend any money or thing of value in order to aid or hinder the nomination or election of any person to public office or to influence the vote on any question submitted to the voters; providing for an exception in elections directly affecting the granting, refusing, existence, or value of a franchise of a corporation which has the right of eminent domain, and providing that in such elections, all means of publicity employed by such corporation shall be identified as pay for by it; providing for the filing of accounts of expenditures made in connection with such elections by corporations, persons, partnerships and associations, and limiting the amount thereof; providing penalties for corporations, their officers, directors, stockholders, employees and agents violating this Act and increased penalties and forfeiture of character or permit of such corporation on second and subsequent violations; providing penalties for persons, partnerships and associations failing to make or falsely making required reports of expenditures in certain elections or exceeding authorized limits thereof; and declaring an emergency."

The bill was read second time.

Senator Metcalfe offered the following amendment to the bill:

Amend H. B. No. 983 by adding at the end of Sub-section (b) of Section 4 the following:

"Provided that nothing in this subsection shall be construed as permitting any such corporation to directly or indirectly give, pay, expend, or contribute or promise to give, pay, expend, or contribute any money or thing of value in order to aid or hinder the nomination or election of any person to any public office in this State."

The amendment was adopted.

Senator Chadick offered the following amendment to the bill:

Amend H. B. No. 983 by adding following the period at the end of the sentence on page 3 line 4 of the printed bill the following:

"But in no event shall any such corporation be authorized to spend

more than five thousand (\$5,000.00) Dollars in any one election contest."

Senator Lanning offered the following substitute for the amendment:

Amend H. B. No. 983 of the printed copy, Section No. 3, subsection (c) by striking out said subsection (c) and substituting in lieu thereof the following:

"(c) If any corporation authorized by Section (b) hereof, or if any person, partnership or association makes any expenditure or incurs any obligation directly or indirectly for the purpose of influencing an election of the character described in Section (b) hereof, it shall be the duty of such corporation, person, partnership or association, and such corporation, person, partnership or association is hereby required to publish, beginning at least sixty (60) days before said election date, in a newspaper in the district where said municipal election is being held, a sworn itemized statement of all expenditures, and said corporation, person, partnership or association shall be required each successive week thereafter until the date of such election to publish in said newspaper a sworn itemized statement of said expenditures; and such corporation, person, partnership or association shall be required to file with the governing body of the political subdivision in which such election is held, and also with the Secretary of State by mail not more than five (5) days, nor less than two (2) days before the date of such election, and also within ten (10) days after the date of such election, itemized, verified accounts correctly showing as of the date of filing, the amounts of money and description and value of all things given, paid, expended and contributed, and the names of the recipients thereof, and all amounts of money and description and value of all things promised or obligated to be given, paid, expended and contributed, and the names of the promises thereof, by such corporation, person, partnership or association, in connection with such election; all such accounts to be verified under oath by an officer of such corporation, or by such person or member of the partnership or association as the case may be; provided, however, that no such corporation, person, partnership or association may give, pay, expend,

contribute or promise to give, pay, expend or contribute money and things of value of the total amount exceeding \$350.00 in any district, municipality or political subdivision with a population less than seven thousand five hundred (7,500) according to the last preceding Federal Census, and no such corporation, person, partnership or association may give, pay, expend, contribute or promise to give, pay, expend or contribute money and things of value of the total amount exceeding One Thousand (\$1,000.00) Dollars in any district, municipality or political subdivision with a population of seven thousand five hundred (7,500) or more, according to the last preceding Federal Census, in which such election is held; provided further that such amounts expended may not, in fixing rates to be charged by such corporation, be charged as operating cost or capital. Any corporation, person, partnership, or association which shall fail to file the accounts as provided herein or if the same be false in any material respect; or if such expenditures shall exceed the limitation of expenditures provided herein, shall be subject to the penalties hereinafter provided.

METCALFE,  
LANNING.

Question—Shall the substitute be adopted?

#### House Concurrent Resolution 171

On motion of Senator Martin and by unanimous consent, the regular order of business was suspended, to permit consideration of H. C. R. No. 171 at this time.

The President laid before the Senate for consideration at this time:

H. C. R. No. 171, Opposing further transfer of tankers for the purpose of carrying oil and its products to the North Atlantic ports for the British.

The resolution was adopted.

#### Report of Conference Committee on Senate Bill 479

Senator Moore submitted the following report:

Austin, Texas,  
May 28, 1941.

Hon. Coke R. Stevenson, President of the Senate;

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the dif-

ferences between the Senate and the House on S. B. No. 479, have met and beg leave to recommend that said S. B. No. 479 be passed in the form hereto attached.

Respectfully submitted,

MOORE,  
WEINERT,  
FAIN,  
RAMSEY,  
SHIVERS,

On the part of the Senate;

MORSE,  
HOWARD,  
WINFREE,

On the part of the House.

S. B. No. 479, A bill to be entitled "An Act authorizing eligible cities as defined herein to issue refunding revenue bonds to take up outstanding revenue bonds issued for the purpose of constructing Exposition and Convention Halls or Coliseums; prescribing the method of issuing and securing such bonds; prescribing the duties of cities and of the officials of cities issuing such refunding bonds; requiring the approval and prescribing the effect of approval of such bonds by the Attorney General; providing for the registration and delivery of such bonds; enacting other provisions relating to the subject and relating to the issuance and security of such bonds; making this Act cumulative of other laws, general or special, but providing that it shall take precedence over other laws or charter provisions in conflict or inconsistent herewith; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. This Act shall be applicable to any city of over one hundred thousand (100,000) population according to the last preceding Federal Census, which owns and operates an exposition and convention hall or coliseum against which there are outstanding revenue bonds issued for the construction thereof, and which owns and operates an unencumbered natural gas distribution system which serves the inhabitants of all or a part of such city. Any such city, for the purpose of this Act, shall be an "eligible" city.

Any eligible city is authorized, without an election and without notice of intention to issue such bonds, to issue refunding bonds for the purpose of taking up and in lieu of its outstand-



ing revenue bonds issued for the purpose of financing the construction of its exposition and convention hall or coliseum, and may secure said refunding bonds by a pledge of the net revenues from the operation of such exposition and convention hall or coliseum, and by the net revenues from the operation of its natural gas distribution system; provided that the revenues from its natural gas distribution system shall not be pledged as security for such refunding bonds unless such refunding bonds are issued to bear an interest rate lower than the rate borne by said outstanding revenue bonds.

Sec. 2. The bonds issued under this Act shall mature serially within a period of time not exceeding thirty (30) years from their date. The governing body of such city shall prescribe the interest rates, maturities and any options of redemption prior to maturity of such bonds. Such bonds which constitute special obligations of the issuing city, shall never be considered indebtedness of such city or town, but solely a charge upon the revenues pledged for the payment of such bonds, and shall never be reckoned in determining the power of such city to issue tax supported bonds for any purpose authorized by law.

Sec. 3. Whenever the income of such exposition and convention hall or coliseum and of such natural gas distribution system shall be encumbered as authorized in this Act it shall be the duty of the city to establish and maintain separate books and accounts for each of the properties whose income shall have been pledged. The total revenues remaining after providing for payment of reasonable operating, maintenance, depreciation, replacement, improvement, necessary expansion and repair charges, resulting from the operation of the encumbered exposition and convention hall or coliseum shall constitute "net revenues." The total revenues remaining after providing for payment of reasonable operating, maintenance, depreciation, replacement, improvement, necessary expansion and repair charges, resulting from the operation of the encumbered natural gas distribution system shall constitute "net revenues." The ordinance authorizing such revenue bonds shall prescribe the conditions under which such revenues may be used to pay depreciation, replacement, improvement and necessary expansion charges. It shall be

the duty of any city issuing bonds under the provision of this Act to fix and maintain rates, rentals, and charges in the instance of each such encumbered property to assure receipt of income sufficient to pay reasonable operating, maintenance, improvement, necessary expansion and repair charges in connection with the proper operation of such property and to assure net revenues from the property or properties encumbered sufficient to pay the principal and interest of such bonds according to their tenor and effect, and to establish and maintain a reasonable reserve in the interest and sinking fund to be provided for such bonds. The requirement for a "reasonable reserve" shall be satisfied by establishing and maintaining in the interest and sinking fund, in addition to requirements for a given calendar year, money sufficient to pay the principal and interest scheduled to mature and accrue during the succeeding calendar year. After such reserve account shall have been established and so long as it shall remain intact and while there are no delinquencies of principal or interest on any of the outstanding bonds, such city may use the pledged revenues in excess of such requirements for any other lawful purpose. The pledging of the revenues as authorized herein shall not constitute a lien on the physical properties of the exposition and convention hall or coliseum or of the natural gas distribution system.

Sec. 4. Every contract and bond, or other evidence of indebtedness, issued pursuant to this Act shall contain substantially the following clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." It shall be the duty of the officials of any such city to file with the Attorney General of the State of Texas a proper transcript of proceedings authorizing the issuance of such refunding bonds and evidencing the pledge of revenues from which the principal and interest of said bonds are to be paid, and to deliver to the Attorney General the executed refunding bonds. It shall be the duty of the Attorney General to approve such record and said bonds when issued in accordance with this law.

Sec. 5. After said bonds have been examined and approved by the Attorney General they shall be registered by the Comptroller and de-

livered in exchange for a like principal amount of said original revenue bonds. After receiving the approval by the Attorney General and having been registered in the office of the Comptroller of Public Accounts, said bonds shall be held in every action, suit or proceeding in which their validity is or may be brought into question, valid and binding obligations. In every action brought to enforce collection of such bonds the certificate of approval by the Attorney General or a duly certified copy thereof shall be received in evidence of the validity of such bonds. The only defense which can be offered against the validity of such bonds shall be forgery or fraud.

Sec. 6. This law shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with or are inconsistent with the provisions of any other law, general or special, or with the provisions of the charter of any such eligible city, the provisions of this Act shall take precedence over any such conflicting or inconsistent provisions.

Sec. 7. The fact that eligible cities can effect a considerable saving in interest through the refunding permitted by this Act, and the near approach of the close of the legislative session create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read in both Houses on three separate days be suspended and said rule is hereby suspended, and that this Act be effective from and after its passage, and it is so enacted.

The report was adopted by the following vote:

Yeas—29

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	York
Lovelady	

Absent—Excused

Spears

Winfield

### House Bills on First Reading

The following bills, previously received from the House, were laid before the Senate, read severally first time, and referred to the committee indicated:

H. B. No. 1059, to Committee on Finance.

H. B. No. 963, to Committee on Finance.

### House Bill 576 on Second Reading

On motion of Senator Mauritz and by unanimous consent, the regular order of business was suspended, to permit consideration of H. B. No. 576 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 576, A bill to be entitled "An Act to repeal Article 4201a, Revised Civil Statutes of Texas, 1925; and declaring an emergency."

The bill was read second time and was passed to third reading.

### House Bill 576 on Third Reading

Senator Mauritz moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 576 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	York
Lovelady	

Absent—Excused

Spears

Winfield

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—27

Beck	Martin
Brownlee	Mauritz
Chadick	Metcalf
Cotten	Moffett
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	York
Lovelady	

Nays—2

Aikin Moore

Absent—Excused

Spears Winfield

#### House Bill 968 on Second Reading

On motion of Senator Brownlee and by unanimous consent, the regular order of business was suspended, to permit consideration of H. B. No. 968 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 968, A bill to be entitled "An Act creating a Special Road Law for Burnet County, Texas; providing that said county may fund or refund into coupon bonds the scrip and time warrants outstanding against its road and bridge fund as of the 12th day of May, 1941; setting forth the method of said funding or refunding; validating all acts of the commissioners' court in issuing said scrip and time warrants; validating said scrip and time warrants; providing the General Laws of the State of Texas shall be applicable to Burnet County when not in conflict herewith; providing this Act shall be cumulative of all general and special laws not in conflict herewith; providing a saving clause; and declaring an emergency."

The bill was read second time and was passed to third reading.

#### House Bill 968 on Third Reading

Senator Brownlee moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 968 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	York
Lovelady	

Absent—Excused

Spears Winfield

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	York
Lovelady	

Absent—Excused

Spears Winfield

#### House Bill 1026 on Second Reading

On motion of Senator Lanning and by unanimous consent, the regular order of business was suspended, to permit consideration of H. B. No. 1026 at this time.

The President laid before the Senate on its second reading and passage to third reading:

H. B. No. 1026, A bill to be entitled "An Act conferring upon the Board of Regents of the Texas State Teachers Colleges the power of eminent do-

main to acquire land for the use of the colleges; exempting said Regents from depositing bond as provided in Section 2 of Article 3268, Revised Civil Statutes of Texas of 1925; and declaring an emergency."

The bill was read second time and was passed to third reading.

#### House Bill 1026 on Third Reading

Senator Lanning moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 1026 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—29

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	York
Lovelady	

Absent—Excused

Spears Winfield

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—29

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	York
Lovelady	

Absent—Excused

Spears Winfield

#### Senate Bill 491 on First Reading

Senator York moved that Section 5 of Article 3 of the Constitution be suspended to permit his introducing a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—29

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	York
Lovelady	

Absent—Excused

Spears Winfield

The following bill then was introduced, read first time and referred to the Committee on State Affairs:

By Senator York:

S. B. No. 491, A bill to be entitled "An Act to amend Article 6205 of the Revised Civil Statutes of the State of Texas, 1925, as amended, relating to persons eligible for pensions to Confederate soldiers and their widows; and declaring an emergency."

#### Message from the Governor

The President laid before the Senate and had read the following message from the Governor:

Austin, Texas,  
May 27, 1941.

To the Members of the Forty-Seventh Legislature:

Since sending you my message yesterday with reference to H. B. No. 611, as passed by the House and now in the Senate, will say that some of the members have informed me that some of the House amendments to that bill have been approved by the Social Security Board in Washington.

As far as I am concerned, I have no objection whatever to any amendments that you may add to H. B. No. 611 that will liberalize the bill or clarify its meaning, provided such amend-

ments are acceptable to the Federal Social Security Board. The point I wish to stress is that we have been advised that unless this bill is passed so as to become effective by July 1st, and thus coincide with the Federal law which goes into effect at that time, that it may mean the cutting off of Federal contributions to our old age assistance fund.

Inasmuch as the original bill, H. B. No. 611, had the full approval of the Federal Social Security Board, of course they would not cut off their contributions if the bill was enacted as originally written, so if any amendments are added, I want to respectfully caution you to make sure that such amendments are acceptable to the Federal Social Security Board so that no chances whatever will be taken regarding the cutting off of Federal matching of our old age assistance funds.

Respectfully submitted,  
W. LEE O'DANIEL,  
Governor of Texas.

#### At Ease

On motion of Senator Metcalfe, the Senate agreed to stand at ease until the conclusion of the joint session to be held today and, at the conclusion of the joint session, to recess until 10:00 o'clock a. m. tomorrow.

#### Joint Session

At 1:00 o'clock p. m., the Senate assembled in joint session with the House to hear an address by Hon. H. V. Kaltenborn.

The President occupied a seat at the Speaker's desk.

The presence of a quorum of each House was duly ascertained and announced by the President of the Senate and by the Speaker of the House.

The Hon. H. V. Kaltenborn was announced at the bar of the House and was escorted to the Speaker's rostrum by Representatives Cato, Kennedy, Manford, Stubbs, Lowry and Brown.

Speaker Leonard presented Representative Cato, who introduced Mr. Kaltenborn to the joint session.

Mr. Kaltenborn then addressed the joint session.

#### Recess

The joint session was concluded at 1:40 o'clock p. m., and the Senate then took recess, in accordance with a motion previously agreed to, until 10:00 o'clock a. m. tomorrow.

## SIXTY-NINTH DAY

### Continued

(Thursday, May 29, 1941)

The Senate met at 10:00 o'clock a. m., and was called to order by the President.

#### Message from the Governor

The President laid before the Senate and had read the following message from the Governor:

Austin, Texas,  
May 28, 1941.

To The Members of the Forty-seventh Legislature:

For many, many years Texas Rangers have been under the supervision of the Adjutant General, but, during the previous administration they were taken away from the Adjutant General, and placed in the Department of Public Safety. When this was done it left the Governor without any positive means of making investigations of lawlessness when asked to do so by the citizens of this State, and it left him without any positive means of rendering aid in stopping lawlessness in local subdivisions when called upon for such aid.

The citizens of this State expect their Governor to respond when they ask for this service because they know that Article 4, Section 10, of our State Constitution, reads in part as follows:

"He (the Governor) shall cause the laws to be faithfully executed."

The facilities for enabling the Governor to cause the laws to be faithfully executed have been taken away from him, and for that reason, I am attaching a bill which will restore these facilities to the Governor and to the State of Texas so that he may be able to cause the laws to be faithfully executed, and I am submitting this as emergency legislation. This bill when enacted will return the Texas Ranger Force to the Adjutant General's Department.

During these critical times it is more important than ever that the Governor of the State of Texas should have the Texas Rangers under the command of the Adjutant General, and I trust you will give this matter your immediate attention.

Respectfully submitted,  
W. LEE O'DANIEL,  
Governor of Texas.